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Rules of Court

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REVIEW OF NORTH DAKOTA DECISIONS

A. E. ANGUS

Miller vs. Kraft. Action for damages for injury in an automobile accident. Defendant's son drove his father's car without the defendant's knowledge or consent and ran into the plaintiff, injuring him. Plaintiff sought recovery under "family car" doctrine. Verdict for plaintiff and appeal. HELD: Reversed and new trial ordered on the ground that the evidence introduced at the trial did not clear up the question of negligence of both parties. Dicta of Court states that head of a family is not liable for car driven by a member of the family except on an agency basis. Where such member was expressly denied the use of the car, the father cannot be held on agency basis.

Clooten vs. Wang. Action to determine adverse claims. Owner of land mortgaged it in 1917 to Driscoll Bank, which mortgage was recorded. Assignment was made by the Bank to defendant and the assignment recorded. A second mortgage to the same Bank was recorded, foreclosure and sale made to the Bank. No redemption was made, and the Bank became entitled to sheriff's deed in 1925, but it was never issued. Meanwhile, in 1921, the land was struck off at tax sale to Burleigh County. The county auditor prepared a certificate of sale which was complete in all respects except that it was not signed by the county auditor. Land was sold by the county to plaintiff, who commenced this action. The defendant prayed that his mortgage be declared a lien on the land subject to a lien for taxes, which he offered to pay. Question is on the validity of the unsigned certificate of tax sale. HELD: Certificate of tax sale not signed by the county auditor is a nullity, but the sale is not thereby invalidated. Plaintiff who secures a tax deed from the county also secures the interest of the county in the tax lien, but does not secure any other title or interest in the land. Defendant, by paying amount of the tax due, may extinguish the tax lien.

RULES OF COURT

As a result of investigations into contingent fee scandals, solicitation, running, touting, group settlements, expert testimony evils, and other ambulance-chasing devices and practices, in cities like New York, Philadelphia and Milwaukee, bar associations are making headway in the house-cleaning that was all too evidently necessary.

Among the more constructive results of the disclosures made by investigating committees, the following rules of court are entitled to particular notice:

1. No attorney shall, directly or indirectly, pay or give, or sanction the payment or gift for his benefit of, any money or thing of value, in consideration or in recognition of services in connection with the employment of such attorney in any claim for the recovery of damages for injury to persons or property.

2. No attorney shall handle any claim for personal injuries save for the party legally entitled to damages therefor or for another member of the bar, and no attorney shall, directly or indirectly, divide his fee with or pay any part thereof to any person not a member of the bar, or

not in his exclusive employ. All damages collected by an attorney on account thereof shall be paid (after the deduction of proper charges) direct to such party irrespective of any claim by any party not a member of the bar to any part thereof. The purpose of this rule is to preclude the handling and barter of accident claims by persons not members of the bar, and hence not subject to supervision and discipline by the Court. Attorneys are expected to cooperate in the observance of the spirit, as well as the letter, of this rule.

3. No attorney shall institute or prosecute any action or undertake the collection of a claim, for the recovery of damages for personal injuries under an arrangement with his client for a contingent fee, unless—(a) Either the basis for the fee be a proportion of the net recovery after deducting all expenses not properly payable by the attorney, or the client be assured at least a specified proportion of the gross recovery, the attorney paying all proper expenses; (b) The power of attorney embodying such arrangement shall distinctly provide that in case of the client's dissatisfaction with the amount of the fee charged, he may require the attorney to submit to the Court in which the suit was brought (or to the Court in which the contract writs are then running if no suit has been brought) the question as to what, under all the circumstances, is a fair and proper charge for the attorney's services.

4. Every attorney effecting the recovery of damages for personal injuries, whether by settlement or through litigation, shall forthwith fill out, in duplicate, a statement in substantially the form set out below, showing in reasonable detail the disposition of the amount received. One such copy shall be preserved by the attorney for six years following such settlement, subject to inspection by the client, by the Court, and by the Committee of Censors of the Law Association. Such statements accumulated by an attorney ceasing to practice may be turned over to the then Chairman of such Committee. No power of attorney in any such case shall authorize the settlement of the claim for a sum less than that expressly approved by the client.

5. No attorney engaged in handling any case (whether in suit or not) involving damages for personal injuries, shall, directly or indirectly, hold out to any medical practitioner the promise, assurance or hope of compensation contingent on the outcome thereof, nor shall any such attorney, after the successful termination thereof, pay or give to any such physician, in recognition of the services of such physician in connection with such case, whether as a gratuity or otherwise, any money or thing of value, in addition to the compensation at the specified rate agreed on by the attorney, win or lose, at the time such physician was employed by the attorney.

CONFLICTS?

Is it true that legal theories and economic justice sometimes conflict? In the effort to find an answer to this question, let us refer to the case of *Pfeiffer vs. Compensation Bureau,* reviewed in January Bar Briefs.

The facts as they now are established by the Court decision, are: A workman, gradually growing blind as the result of a tumor located in the little pocket where the eye nerves cross, and who, prior to the date of injury, had lost 50 per cent of the sight of one eye and 16 per cent of the sight of the other, sustained a slight blow upon the outside of